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Emergency rules now in effect

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Agriculture, Trade & Consumer Protection

Rules adopted amending **s. ATCP 10.47 (2) (c) and (3) (b) 3.**, relating to minimum acreage requirements for farm-raised deer hunting preserves.

(1) The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers state laws related to farm-raised deer. DATCP currently licenses deer farms and issues certificates for deer hunting preserves, pursuant to s. 95.55, Stats., and ch. ATCP 10, Wis. Adm. Code.

(2) Current law generally prohibits deer hunting preserves smaller than 80 acres. However, 2005 Wis. Act 359 (enacted effective May 3, 2006) provides a limited “grandfather” exemption for certain white-tailed deer hunting preserves previously licensed by the Department of Natural Resources (“DNR”). Under Act 359, a white-tailed deer hunting preserve is exempt from the 80-acre minimum size requirement if, *among other things*, the acreage of the hunting preserve is “not less than the acreage subject to the deer farm license on December 31, 2002.” This rule clarifies that the “acreage subject to the deer farm license on December 31, 2002” means the *hunting* acreage subject to the deer farm license on December 31, 2002. Without this interpretation, Act 359 would have no practical effect and would be rendered a nullity.

(3) The “grandfather” exemption in Act 359 is limited to hunting preserve operators who apply by November 1, 2006. DATCP must act on applications within 90 business days. Action may affect an operator’s ability to operate during the 2006 hunting season. DATCP is adopting this rule as an

emergency rule, in order to facilitate timely action on applications. DATCP could not adopt this rule by normal rulemaking procedures in time to implement Act 359.

Publication Date: October 9, 2006
Effective Date: October 9, 2006
Expiration Date: March 7, 2007
Hearing Date: November 13, 2006

Dentistry Examining Board

Rules were adopted amending **ch. DE 11**, relating to better identifying the different levels of anesthesia, including nitrous oxide, anxiolysis, conscious sedation-enteral, conscious sedation-parenteral, deep sedation, and general anesthesia, and the requirements for each level.

Finding of Emergency

The board has made a finding of emergency. The board finds that failure to delay the effective date of CR04-095, from January 1, 2007, to July 1, 2007, will create a danger to the public health, safety and welfare. The extra six months are needed to allow the implementation of the rule to occur and to ensure the continued use of conscious sedation for dental patients.

Publication Date: December 29, 2006
Effective Date: December 29, 2006
Expiration Date: May 28, 2007

Elections Board

Rules were adopted creating **s. EIBd 3.04**, relating to election day registration and the requirement to provide a driver’s license number or other form of identification to register at the polls.

Finding of Emergency

The Elections Board finds that an emergency exists in the 2002 change in federal law that requires persons who have been issued a current and valid driver’s license to list that number in completing a voter registration application or their registration may not be processed.

In 2002, Congress enacted the Help America Vote Act to address problems and issues that surfaced in the 2000 presidential election. Section 303(a)(5)(A)(i) of the Act provided that “an application for voter registration for an election for Federal office may not be accepted or processed by a state unless the application includes – in the case of an applicant who has been issued a current and valid driver’s license, the applicant’s driver’s license number.” To comply with federal law, but also to avoid disenfranchising those Wisconsin election day registrants who have been issued a current and valid Wisconsin driver’s license but do not provide that number on their registration form, the Board has adopted s. EIBd 3.04, providing for the issuance of a provisional ballot to those registrants, pursuant to s. 6.97, Stats. Under that statute, the provisional ballot will be counted if the registrant provides, by any means feasible, his or her driver’s license number to the clerk of the municipality in which the registrant has voted, not later than 4:00 p.m., on the day following the election.

Previously, the Board's policy had been to process the election day registration of those registrants who failed to list their driver's license number on their registration application, if they had provided, on their registration form, a Wisconsin-issued Identification Card Number or the last four digits of their Social Security Number. Whether that policy complied with federal law had been in issue. Assuring that Wisconsin's practice complies with federal law and obtaining that assurance before election day, by the promulgation of this emergency rule, is found to be in the public interest.

Publication Date: July 31, 2006
Effective Date: July 31, 2006
Expiration Date: December 28, 2006
Hearing Date: October 4, 2006

Financial Institutions – Banking

Rules were adopted revising **ch. DFI—Bkg 77**, relating to pawnbrokers.

Finding of Emergency

The effect of 2005 Wisconsin Act 158 is that pawnbrokers licensed by the department under s. 138.09, Stats., are exempt from s. 138.10, Stats., effective October 1, 2006. Under statutory procedures, however, a permanent rule regulating these pawnbrokers is unlikely to be effective until mid-2007, leaving the public without the safeguards of the permanent rule until that time. Thus the preservation of public safety and welfare necessitates enacting the safeguards of the emergency rule until a permanent rule is in effect.

Publication Date: September 25, 2006
Effective Date: October 1, 2006
Expiration Date: February 28, 2007
Hearing Date: December 13, 2006

Insurance (2)

1. Rules adopted creating **ss. Ins 9.25 (8) and 9.27 (4)**, Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business plan limited exemption.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

The rule identifies a limited group of policies issued by licensed insurers offering preferred provider plans that do not comply with newly promulgated ch. Ins 9, Wis. Adm. Code. In compliance with the request of the Joint Committee for the Review of Administrative Rules (JCRAR), this rule must be issued as an emergency rule and permanent rule. It is not possible to complete the permanent rule process prior to the effective date of the chapter, January 1, 2007, therefore this emergency rule is necessary.

The commissioner has filed a notice of scope for drafting the permanent rule corresponding to this emergency rule and will continue with the permanent rule making process. It is intended that one rule hearing can be held to comply with both the emergency rule and permanent rule requirements.

Publication Date: August 31, 2006
Effective Date: September 1, 2006
Expiration Date: January 29, 2007
Hearing Date: December 12, 2006

2. Rules adopted revising **s. Ins 6.77**, relating to underinsured and uninsured motorist coverage in umbrella and commercial policies.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes will modify the rule in light of the recent Supreme Court decisions, *Rebernick v American Family Mutual Ins Company*, 2006 WI 27 and *Rocker v USAA Casualty Ins Company*, 2006 WI 26. In *Rebernick*, the court held that s. 632.32 (4m), Stats, applies to personal umbrella policies. In *Rocker*, the court held that s. 632.32 (6) (a), Stats, applies to commercial general liability policies and commercial umbrella policies. These interpretations are inconsistent with current insurer practices and OCI's expectation of what would be covered in these types of policies.

Compliance with this interpretation would create significant, if not impossible compliance problems for insurers. Many insurers who write umbrella coverage do not write and are not even licensed to write automobile coverage. A second, difficult issue is that the limits for umbrella coverages are generally very high, \$1,000,000. It is unclear how an umbrella policy would reconcile these limits with the underlying auto policy and underinsured motorist coverage. For this reason, OCI had previously by rule exempted umbrella policies from the similar requirements of the uninsured motorist coverages in s. 632.32, Stats. For similar reasons, the same revision is being made for commercial liability policies.

Publication Date: September 29, 2006
Effective Date: September 29, 2006
Expiration Date: February 26, 2007
Hearing Date: December 11, 2006

Natural Resources (Environmental Protection – Water Regulation, Chs. NR 300—)

Rules adopted creating **ss. NR 328.31 to 328.36**, relating to shore erosion control on rivers and streams.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken as exempt from a permit, or under a general permit. There are no statutory exemptions for shore protection on rivers and streams. Without emergency rules to create general permits, all shore protection projects on rivers and streams require an

individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish general permits to be in effect for the 2006 construction season, with specific standards for shore erosion control structures on rivers and streams.

Publication Date: May 5, 2006
Effective Date: May 8, 2006
Expiration Date: October 4, 2006
Hearing Date: June 13, 2006
Extension Through: December 2, 2006

Natural Resources (Environmental Protection – Hazardous Waste, Chs. NR 600—)

Rules adopted revising **chs. NR 660 to 665**, relating to hazardous waste management.

Exemption from Finding of emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

In 2001, EPA proposed regulations to change the hazardous waste manifest requirements under the federal Resource Conservation and Recovery Act (RCRA) to eliminate all state-specific requirements and to require electronic submittal of the manifests. The EPA's final rule was published March 4, 2005, with correcting amendments published on June 16, 2005, and the effective date is September 5, 2006. The new regulations require the use of standardized manifest forms in all states and require certification from EPA in order to print the manifest forms. (Final action on the e-manifest was postponed.) Unlike most RCRA rules, this federal regulation will take effect, nation-wide, on the effective date. The new federal requirements will apply in all states, including Wisconsin, but will not override or supersede Wisconsin's state-specific hazardous waste manifest requirements. Accordingly, the potential exists for conflicting or additional state manifest requirements to exist beginning on that date, and the advantages of a single, uniform nationwide rule will be lost.

The normal administrative rulemaking process cannot be completed in time to conform Wisconsin's hazardous waste manifest requirements to the new EPA manifest regulations by their September 5, 2006 effective date. However, failure to adopt the new federal requirements as state rules by this date may cause legal uncertainty and potential confusion among hazardous waste generators, transporters and treatment, storage and disposal facility operators, as well as state regulatory program staff. This could interfere with interstate commerce and the orderly functioning of government, imposing unnecessary regulatory costs on Wisconsin individuals and businesses and out-of-state companies doing business in Wisconsin, to the detriment of the public welfare. More importantly, the potential confusion caused by different state and federal manifest requirements could lead to improper transportation and management of hazardous wastes, resulting in a threat to public health or safety and the environment.

Publication Date: September 2, 2006
Effective Date: September 5, 2006
Expiration Date: February 2, 2007
Hearing Date: September 26, 2006

Optometry Examining Board

A rule Was adopted creating **ch. Opt 8**, relating to continuing education.

Exemption from finding of emergency

2005 Wisconsin Act 297 section 58 states in part:

“(3) Continuing education rules. (b) ...Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the optometry examining board is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.”

Plain language analysis

Chapter Opt 8 is being created to incorporate the continuing education requirements that optometrists must complete in order to renew their registrations. As a result of the changes made to ch. 449, Stats., by 2005 Wisconsin Act 297, all optometrist will now be required to complete 30 hours of continuing education. Previously, only optometrists who were certified to use diagnostic pharmaceutical agents (DPA) and therapeutic pharmaceutical agents (TPA) were required to complete continuing education course work.

Publication Date: November 8, 2006
Effective Date: November 8, 2006
Expiration Date: April 7, 2007
Hearing Date: December 7, 2006

Regulation and Licensing

Rules adopted creating **chs. RL 160 to 168**, relating to substance abuse professionals.

Exemption from finding of emergency

Section 9140 (1q) of 2005 Wisconsin Act 25 states in part: “Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

Plain language analysis

2005 Wisconsin Act 25 created Subchapter VII of chapter 440, Stats., Substance Abuse Counselors, Clinical Supervisors, and Prevention Specialists. This Act transferred the certification and regulation of Alcohol and other Drug Abuse (AODA) counselors from the Department of Health and Family Services to the Department of Regulation and Licensing, effective 2006. This proposed rule-making order creates rules relating to definitions, requirements for certification, supervised practice, scope of practice, education approval and professional liability insurance for substance abuse professionals.

Publication Date: November 27, 2006
Effective Date: December 1, 2006
Expiration Date: April 30, 2007

Transportation (2)

1. Rules adopted creating **ch. Trans 515**, relating to contractual service procurement.

Exemption from finding of emergency

The Legislature, by Section 8 of 2005 Wis. Act 89, provides an exemption from a finding of emergency for the adoption of the rule.

Analysis Prepared by the Department of Transportation

The proposed rule requires a cost benefit analysis before procuring engineering or other specialized services under s. 84.01 (13), Stats., in excess of \$25,000 when those services are normally performed by state employees. The required analysis includes a comparison between the costs of contracting out and performing the services with state employees. The analysis also considers other subjective factors such as timeliness, quality and technical expertise.

Publication Date: July 1, 2006

Effective Date: July 1, 2006

Expiration Date: See section 8 (2) of 2005 Wis. Act 89

Hearing Date: August 8, 2006

2. Rules adopted revising **ch. Trans 276**, relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit.

Exemption from finding of emergency

The Legislature, by Section 7 of 2005 Wis. Act 363, provides an exemption from a finding of emergency for the adoption of the rule.

Plain language analysis

Section 348.07 (1), Stats., historically has limited vehicle lengths on Wisconsin highways to 65 feet. Section 348.07(2), Stats., allowed vehicles meeting the specifications of that subsection to operate without permits despite exceeding the 65-foot limit of subsection (1).

2005 Wis. Act 363 amended s. 348.07, Stats., and essentially made 75 feet the default permitted length on the state trunk highway system. Wisconsin's old default 65-foot overall length limit still applies on all local roads but only applies to state trunk highways that are designated as 65-foot restricted routes by the Department. This emergency rule making establishes a preliminary list of such "65-foot restricted routes."

Prior to Act 363, s. 348.07 (4), Stats., permitted the Department to designate "long truck routes" upon which no

overall length limits apply. The Department designates the state's long truck routes in s. Trans 276.07. This rule making does not affect those longstanding designations.

The new "default" 75-foot overall length limit applies on state highways that are neither designated as 65-foot restricted routes under this rule making nor long truck routes under s. Trans 276.07.

Definitions have been added to the rule to make it easier to identify the nature of designations made by the Department in Ch. Trans 276.

In drafting this rule the Department noticed several items that it believes may be of special interest to the legislature and which, in the Department's view, deserve special legislative attention. First, Act 363 did not grant any authority for 75-foot vehicles using the new 75-foot routes to leave those routes to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading. The Department does not believe this oversight was intentional and, on an emergency basis, has designated the intersection of each 75-foot route and any other highway as a long truck route under its authority in s. 348.07 (4), Stats. This will permit trucks to exceed the 65-foot default length limit on local roads to access such facilities and make deliveries. The Department encourages the legislature to consider statutorily establishing access rights for vehicles using 75-foot restricted routes.

The second consequence of Act 363 the Department has discovered in drafting this emergency rule is that one statute that formerly restricted double-bottom tractor-trailer combinations to the state's long-truck network was repealed by the deletion of the reference to s. 348.07 (2) (gm), Stats., by the Act's amendment of s. 348.07 (4), Stats. Under the amended statute, as revised by Act 363, it might appear to a reader that double bottom trucks of unlimited length may operate upon any highway in the state, including local roads and streets, without permits. Section 348.08 (1) (e), Stats., however, continues to provide that double-bottom trucks be restricted to highways designated by the department under s. 348.07 (4). WisDOT believes this provision continues to limit double-bottom operation to long truck routes designated by the Department under s. 348.07 (4), Stats. WisDOT would suggest the deleted reference to (2) (gm) in 348.07 (4), Stats., be re-inserted into the statute to avoid confusion.

Finally, the Department notes that s. 348.07, Stats., is becoming difficult to decipher from a legal standpoint because of the many amendments that have been made to it over the years. It may be that recodifying the statute for the purpose of clarification of the length limitations of Wisconsin law would be helpful to truck and long vehicle operators in this state.

Publication Date: September 15, 2006

Effective Date: September 15, 2006

Expiration Date: See section 7 (2) of 2005 Wis. Act 363

Hearing Date: October 4, 2006

Scope statements

Agriculture, Trade and Consumer Protection

Subject

The Department of Agriculture, Trade and Consumer Protection (DATCP) gives notice, pursuant to s. 227.135, Wis. Stats., that it proposes to modify a administrative rule as follows: Agricultural Chemical Cleanup Program; License Surcharges.

Statutory Authority

DATCP proposes to revise chapters ATCP 29 and 40, Wis. Adm. Code, under authority of ss. 93.07 and 94.73, Wis. Stats.

Objective of the rule. Adjust license surcharges for the Agricultural Chemical Cleanup Program.

Policy Analysis

The Agricultural Chemical Cleanup Program reimburses persons for costs that they incur to clean up certain fertilizer and pesticide spills. The program reimburses a specified share of eligible costs. DATCP makes reimbursement payments from the Agricultural Chemical Cleanup Fund (Fund). The Fund is financed by fertilizer and pesticide license surcharges. DATCP establishes surcharge amounts by rule, subject to statutory limits. At the end of SFY 2006, the Fund was above the statutory maximum of \$2,500,000. Changes to the rules will adjust current fertilizer and pesticide surcharges to bring the Fund within the required balance.

Comparison with Federal Regulations

There are no federal regulations associated with these proposed rule modifications.

Entities Affected by the Rule

These modifications to the rules will affect licensees who manufacture, sell, and purchase fertilizer or pesticides and who are responsible for paying pesticide or fertilizer license surcharges under chs. ATCP 29 and 40, Wis. Adm. Code, that fund the Agricultural Chemical Cleanup Program.

Policy Alternatives

None. DATCP must adjust fertilizer and pesticide license surcharges in order for the Fund balance to be within its statutory maximum.

Statutory Alternatives

Section 94.73, Wis. Stats. allows DATCP to adjust license surcharges by rule, as long the Fund balance remains at or below its statutory maximum.

The Legislature has other alternatives available. The Legislature could revise the statutes to give DATCP additional expenditure authority. It also could revise the statutes to increase the statutory maximum balance allowed in the Fund. The Legislature could revise the statutory maximum license surcharges that DATCP could assess. This option would also require DATCP to adjust the license surcharges by rule, as proposed.

Staff Time Required

DATCP estimates that it will use approximately 0.25 FTE staff to revise these rules. This includes the time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings,

holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to revise these rules.

DATCP Board Authorization

DATCP may not begin drafting these rule changes until the Board of Agriculture, Trade and Consumer Protection (Board) approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. If the Board takes no action on the scope statement within 30 days after the scope statement is presented to the Board, the scope statement is considered approved. Before DATCP holds public hearings on the changes to the rules, the Board must approve the hearing draft. The Board must also approve the final draft changes before DATCP adopts the changes to the rules.

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

Subject

Creating rule changes to s. A–E 2.02, relating to registration seals for architects, landscape architects, professional engineers, designers and land surveyors. Section A–E 2.02 specifies the requirements for registration seals and signatures. Registration seals and signatures must be utilized in the production of plans, drawings, documents, specifications and reports within these professions. This rule change would allow for credential holders' documents to be signed, sealed, or stamped by electronic means.

Policy Analysis

Objective of the rule. To update the rules to reflect new technology that permits documents to be signed, sealed, or stamped by electronic means.

Existing Policies Relevant to the Rule, New Policies Proposed and Analysis of Policy Alternatives

Existing rules relating to registration seals for architects, landscape architects, professional engineers, designers and land surveyors can be found in s. A–E 2.02. Section A–E 2.02 requires plans, drawings, documents, specifications, and reports to be signed and sealed by the registrant. These registration seals and stamps must meet specific requirements that are specified in s. A–E 2.02.

Comparison with Federal Regulations

This is not an area which is regulated by federal law or is subject to any proposed federal legislation. The standards for state licensure are regulated by each state.

Statutory Authority

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Entities Affected by the Rule

Architects, landscape architects, professional engineers, designers and land surveyor licensees.

Staff Time Required

30 hours.

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

Subject

Creating rule changes to s. A–E 8.03 (5) to provide more specific language relating to the definition of responsible charge as it relates to the practice of architecture, landscape architecture, professional engineering, designing or land surveying. Section A–E 8.03 (5) specifies the definition of responsible charge including what is not specifically included in the definition.

Policy Analysis

Objective of the rule. To update the rules to reflect changes in the profession and provide further clarification as to the meaning of responsible charge.

Existing Policies Relevant to the Rule, New Policies Proposed and Analysis of Policy Alternatives

Existing rules defining responsible charge for architects, landscape architects, professional engineers, designers and land surveyors can be found in s. A–E 8.03 (5). Sec. A–E 8.03 (5) defines responsible charge as “direct, personal, active supervision and control of the preparation of plans, drawings, documents, specifications, reports, maps, plats and charts.” The definition also includes specifications as to what responsible charge does not include. Responsible charge is also given the same meaning as “direction and control.” Section A–E 8.10 specifies the requirements for direction and control of work prepared prior to being signed or stamped by licensees.

Comparison with Federal Regulations

This is not an area which is regulated by federal law or is subject to any proposed federal legislation. The standards for state licensure are regulated by each state.

Statutory Authority

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Entities Affected by the Rule

Architects, landscape architects, professional engineers, designers and land surveyor licensees.

Staff Time Required

30 hours.

Pharmacy Examining Board

Subject

Chapter Phar 7 of the Wisconsin Administrative Code defines mandatory and permissible pharmacy practice activities for a pharmacist and for a pharmacy technician. The proposed rule change would amend provisions of the current rule that relate to when and how a technician may transfer a prescription to a patient.

Policy Analysis

Objective of the rule. To clarify that technicians may transfer prescriptions to patients while maintaining the requirement that the pharmacist always provides consultation to the patient.

Existing Policies Relevant to the Rule, New Policies Proposed and Analysis of Policy Alternatives

Wis. Admin. Code s. Phar 7.01 (1) (em) was promulgated in 1998 to clarify that a residential delivery of a drug could be made to an agent of the patient. It appears in a section of the pharmacy practice chapter as a minimum dispensing

procedure, among a list of duties that a pharmacist shall perform. The board’s position is that when a consultation has occurred between pharmacist and patient prior to transfer, and the pharmacist is present and available, the technician can hand the receipt and product to the customer as part of the transaction. Wis. Admin. Code s. Phar 7.015 (3) (e), which includes a list of duties that may not be performed by a technician, prohibits the transfer of a prescription to the patient or agent of the patient by a technician. Board legal counsel advises that the board meant this section to apply only to situations where a consultation is not occurring, or in other words, when a technician is working alone.

Entities Affected by the Rule

The Pharmacy Examining Board, the Wisconsin Department of Regulation and Licensing, practicing pharmacists and pharmacy technicians.

Comparison with Federal Regulations

There is no existing or proposed federal regulation for summary and comparison.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2) and 450.02 (3) (d) and (e), Stats.

Staff Time Required

100 hours.

Workforce Development

Subject

The adjustment of thresholds for application of prevailing wage rates.

Policy Analysis

When a state agency or local governmental unit contracts for the erection, construction, remodeling, repairing, or demolition of a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Sections 66.0903 (5) and 103.49 (3g), Stats., set initial estimated project cost thresholds for application of prevailing wage rates and require that DWD adjust the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. Pursuant to s. DWD 290.15, the threshold adjustment is based on changes in the construction cost index published in the *Engineering News–Record*, a construction trade publication.

This rule will adjust the thresholds for application of the prevailing wage rate based on a 3.452% increase in the construction cost index since the thresholds were last adjusted. The current thresholds are \$43,000 for a single–trade project and \$209,000 for a multi–trade project. The new thresholds will be \$44,000 for a single–trade project and \$216,000 for a multi–trade project.

Entities Affected by the Rule

State agencies, local governmental units, employers in the construction industry who contract for public works projects, and employees of these employers.

Comparison with Federal Regulations

The threshold for application of the federal prevailing wage law is a contract greater than \$2,000. This threshold is in statute and is rarely adjusted.

Statutory Authority

Sections 66.0903 (5), 103.49 (3g), and 227.11, Stats.

Staff Time Required

35 hours.

Submittal of rules to legislative council clearinghouse

*Please check the Bulletin of Proceedings – Administrative Rules
for further information on a particular rule.*

Agriculture, Trade and Consumer Protection

On December 12, 2006, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. ATCP 30, relating to chloropicrin and metam sodium soil fumigants.

Agency Procedure for Promulgation

The department will hold public hearings on this rule after the Rules Clearinghouse completes its review. The department's Agricultural Resource Management Division is primarily responsible for this rule.

Contact Person

If you have questions, you may contact Jeff Postle at 608 224-4503.

Natural Resources

On December 6, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ss. NR 5.001 and 5.01, relating to registration of boats used exclusively to make advertisements and creating definitions.

Agency Procedure for Promulgation

The department will hold public hearings January 24 and 25, 2007. The organizational unit responsible for promulgation of the proposed rule is the Bureau of Law Enforcement.

Contact Person

Roy Zellmer
(608) 264-8970

Natural Resources

On December 6, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ss. NR 5.001 and 5.18, relating to mandatory boating education program, temporary certifications and course fees.

Agency Procedure for Promulgation

The department will hold public hearings January 24 and 25, 2007. The organizational unit responsible for promulgation of the proposed rule is the Bureau of Law Enforcement.

Contact Person

Roy Zellmer
(608) 264-8970

Natural Resources

On December 6, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. NR 10, relating to deer hunting season and permit issuance regulation changes.

Agency Procedure for Promulgation

The department will hold public hearings January 16, 17 and 23, 2007. The organizational unit responsible for promulgation of the proposed rule is the Bureau of Wildlife Management.

Contact Person

Scott Loomans
(608) 267-2452

Natural Resources

On December 6, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects s. NR 19.50, relating to establishing specialized fees for internet based ATV and snowmobile safety certification programs.

Agency Procedure for Promulgation

The department will hold public hearings January 24 and 25, 2007. The organizational unit responsible for promulgation of the proposed rule is the Bureau of Law Enforcement.

Contact Person

Gary Eddy
(608) 267-7455

Transportation

On November 29, 2006, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. Trans 102, relating to proof of identity.

Agency Procedure for Promulgation

The department will hold a public hearing January 8, 2007. The organizational unit responsible for promulgation of the

proposed rule is the Division of Motor Vehicles, Bureau of Driver Services.

Contact Person

Julie a. Johnson, Paralegal
(608) 266-8810

Transportation

On November 29, 2006, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on specified highways.

Agency Procedure for Promulgation

The department will hold a public hearing January 11, 2007. The organizational unit responsible for promulgation of the proposed rule is the Division of Transportation System Development, Bureau of Highway Operations.

Contact Person

Julie a. Johnson, Paralegal
(608) 266-8810

Transportation

On December 11, 2006, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. Trans 138, relating to dealer facilities, records and licenses.

Agency Procedure for Promulgation

The department will hold a public hearing January 18, 2007. The organizational unit responsible for promulgation of the proposed rule is the Division of Motor Vehicles, Bureau of Vehicle Services, Dealer & Agent Section.

Contact Person

Julie a. Johnson, Paralegal
(608) 266-8810

Rule-making notices

Notice of Hearings

Agriculture, Trade and Consumer Protection

[CR 06–130]

(reprinted from 12/15/06 Wis. Adm. Register)

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed hearing draft to ch. ATCP 112, Wis. Adm. Code, relating to credit report security freezes.

DATCP will hold two public hearings at the times and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until **Friday, February 2, 2007** for additional written comments. Comments may be sent to the Division of Trade and Consumer Protection at the address below, by email to michelle.reinen@datcp.state.wi.us or online at <https://apps4.dhfs.state.wi.us/admrules/public/Home>.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–5160 or emailing michelle.reinen@datcp.state.wi.us. Copies will also be available at the hearings. To view the proposed rule online, go to:

<https://apps4.dhfs.state.wi.us/admrules/public/Home>

To provide comments or concerns relating to small business, please contact DATCP's small business regulatory coordinator Keeley Moll at the address above, by emailing to Keeley.Moll@datcp.state.wi.us or by telephone at (608) 224–5039.

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by January 8, 2007, by writing to Michelle Reinen, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–5160. Alternatively, you may contact the DATCP TDD at (608) 224–5058. Handicap access is available at the hearings.

Hearing Dates and Locations

Thursday, January 18, 2007

1:00 p.m. to 3:00 p.m.

Dept. of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive, Board Room (CR–106)

Madison, Wisconsin, 53718–6777

Friday, January 19, 2007

11:00 a.m. to 1:00 p.m.

Havenwoods State Forest

6141 North Hopkins Street

Milwaukee, Wisconsin 53209–3565

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

This rule implements s. 100.54, Stats. (created by 2005 Wis. Act 140), related to credit report security freezes. This rule clarifies the information that credit reporting agencies

may request in order to verify the identity of persons requesting credit report security freezes. Credit reporting agencies must adopt written procedures to comply with s. 100.54, Stats., and this rule.

Statutory Authority: ss. 93.07 (1), 100.54 (12) and 100.20 (2), Stats.

Statutes Interpreted: ss. 100.54 and 100.20 (1), Stats.

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) has broad general authority, under s. 93.07 (1), Stats., to interpret laws under its jurisdiction. Section 100.54 (12), Stats., specifically requires DATCP to adopt rules related to identification required of consumers requesting credit report security freezes. Under s. 100.20 (2), Stats., DATCP may adopt rules (general orders) to prohibit unfair business practices and require fair practices.

Background

Section 100.54, Stats., created by 2005 Wisconsin Act 140, regulates access to consumer credit reports. The law permits a consumer to create a “security freeze” on his or her consumer credit report. A security freeze limits the release and distribution of the consumer credit report. At any time after creating a security freeze, the consumer may ask the credit reporting agency to release the consumer’s credit report for a specified period of time, or to terminate the security freeze altogether.

A consumer who asks a credit reporting agency to create or release a security freeze must provide information to verify the consumer’s identity. Under s. 100.54(12), Stats., DATCP must adopt rules to define what constitutes proper identification. Under s. 100.20(2), Stats., DATCP may prohibit unfair business practices (including unfair credit reporting practices) and require fair practices.

Rule Contents

This rule defines what constitutes proper identification for a consumer who wishes to place a security freeze on his or her credit report. The rule is consistent with federal law related to proper identification. The rule does all of the following:

- Spells out the information that a credit reporting agency may require of a consumer who asks the agency to create a security freeze, in order to verify the consumer’s identity.
- Spells out the information that a credit reporting agency may require of a consumer who asks the agency to release or terminate a security freeze, in order to verify the consumer’s identity. The agency may require the same information that it required to create the security freeze and may, in addition, require a password assigned to the consumer when the security freeze was created.
- Requires credit reporting agencies to spell out written procedures for complying with this rule and s. 100.54, Stats.

Fiscal Impact

This rule will have no significant fiscal impact on DATCP or local units of government.

Business Impact

This rule only affects credit reporting agencies by regulating how the agency may identify consumers who request security freezes or changes to their security freeze status. The rule has no effect on a business that is not a credit reporting agency. Currently, there are only 3 credit reporting

agencies operating in the United States. None of these are small businesses.

Federal Regulations

The federal Fair Credit Reporting Act of 2003 allows consumers who are victims of identity theft to freeze their credit reports. If a consumer is not a victim of identity theft, they have no option under federal law to place a freeze on their credit report. For victims of identity theft, federal rules under 16 CFR § 614.1 spell out the information that a credit reporting agency may use to verify the identity of consumers who ask the agency to create or release a security freeze. Federal standards are consistent with the standards in s. 100.54, Stats., and this rule.

Regulation in Surrounding States

Approximately 17 states have enacted laws that require consumer credit reporting agencies to freeze consumer credit reports upon request. Under all of those laws, credit reporting agencies may require requesting consumers to submit information to verify their identity. Most states allow credit reporting agencies to demand “information generally deemed sufficient to identify a person.” If that information is insufficient, some states allow the consumer reporting agency to request “additional information concerning the consumer’s employment and personal or family history in order to verify his or her identity.”

Of the states surrounding Wisconsin, Illinois and Minnesota have enacted security freeze legislation. Security freeze legislation has been introduced, but not yet enacted, in Iowa and Michigan.

The Minnesota law took effect on August 1, 2006 and the Illinois law will take effect on January 1, 2006. The Minnesota and Illinois laws, like most other state laws on the subject, allow credit reporting agencies to demand “information generally deemed sufficient to identify a person.” If that information is insufficient, Illinois law allows the consumer reporting agency to request “additional information concerning the consumer’s employment and personal or family history in order to verify his or her identity.”

Notice of Hearings

Agriculture, Trade and Consumer Protection

[CR 06–136]

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed amendment to chapter ATCP 30, Wis. Adm. Code, relating to chloropicrin and metam sodium soil fumigants.

DATCP will hold two public hearings at the times and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until Friday, February 9, 2007 for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below, by email to jeff.postle@datcp.state.wi.us or online at <https://apps4.dhfs.state.wi.us/admrules/public/Home>.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224-4503 or emailing jeff.postle@datcp.state.wi.us. Copies will also be

available at the hearings. To view the proposed rule online, go to:

<https://apps4.dhfs.state.wi.us/admrules/public/Home>

To provide comments or concerns relating to small business, please contact DATCP’s small business regulatory coordinator Keeley Moll at the address above, by emailing to Keeley.Moll@datcp.state.wi.us or by telephone at (608) 224-5039.

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by January 12, 2007, by writing to Jeff Postle, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4503. Alternatively, you may contact the DATCP TDD at (608) 224-5058. Handicap access is available at the hearings.

Hearing Dates and Locations

Tuesday, January 23, 2007

2:00 p.m. to 5:00 p.m.

Wisconsin Department of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive

Madison, WI 53718

Tuesday, January 30, 2007

3:00 p.m. to 7:00 p.m.

Elizabeth Inn

Highway 54 and 51

Stevens Point, WI 54481

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

This rule regulates the use of soil fumigant pesticides containing chloropicrin or metam sodium active ingredients. This rule does all of the following:

Creates new rules to regulate the use of chloropicrin soil fumigants.

Modifies current rules regulating the use of metam sodium soil fumigants. Among other things, this rule relaxes current post-application monitoring requirements and current setback requirements for “tarpred” applications.

Statutory Authority

Statutory authority: ss. 93.07 (1), and 94.69 (1) (i), Stats.

Statutes interpreted: s. 94.69 (1) (i), Stats.

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) has general authority to adopt rules interpreting statutes under its jurisdiction (*see* s. 93.07 (1), Stats.). DATCP is specifically authorized to adopt rules under s. 94.69 (1) (i), Stats., to regulate the use of pesticides.

Background

DATCP administers Wisconsin’s pesticide laws. Chloropicrin and metam sodium are soil fumigant pesticides, used mainly by potato growers to control nematodes. Under current DATCP rules, persons using *metam sodium* soil fumigants must take certain steps to prevent human exposure to volatilized fumigant (there are no equivalent rules for *chloropicrin* applications). Under current *metam sodium* rules:

Applicators must be properly certified.

No agricultural application may be made within ¼ mile of a hospital, nursing home, jail or prison, or within ¼ mile of a school that will be in session during the application or within 48 hours after the application.

Agricultural application sites must be covered by a tarp or other impermeable barrier, except when the soil fumigant is injected into the soil or applied by specified chemigation procedures. Application by knife rig injection is prohibited when soil temperatures are too high.

Applicators must pre-notify county public health authorities, and neighbors within ¼ mile, prior to any “chemigation” application. “Chemigation” applications must comply with specific rule standards.

Applicators must monitor application sites after the application, and must take appropriate steps to prevent pesticide drift. Applicators must notify Wisconsin emergency management if it appears that pesticide drift may contact residences or public buildings.

Applicators must keep specified records related to metam sodium applications.

Rule Contents

This rule regulates *chloropicrin* applications in the same way that current rules regulate *metam sodium* applications (see above). This rule also modifies current metam sodium regulations as follows (the same regulations will apply to chloropicrin):

For “tarped” agricultural applications, this rule reduces the required minimum setback from schools, hospitals, nursing homes, jails and prisons from 1/4 mile to 1/8 mile. For “untarped” agricultural applications, the required minimum setback remains at 1/4 mile.

The setback requirements applicable to schools are also made applicable to licensed daycare facilities. An exception is provided for an application to a plant nursery that was in existence prior to the first date the daycare facility was licensed if the nursery operator provides at least 24 hours prior notice of the application to the daycare facility operator.

This rule relaxes current follow-up monitoring requirements. Under current rules, a certified applicator must inspect the application site 4–6 hours after the application is completed and again 9–12 hours after the application is completed. Under this rule, a certified applicator must only conduct one follow-up inspection, within one hour of sunset on the day of application.

This rule updates current emergency government references, and makes other minor editorial changes.

Federal Regulations

The U.S. Environmental Protection Agency (EPA) regulates pesticides under the Federal Insecticide, Fungicide and Rodenticide Act. Pesticides must be registered with EPA. EPA registers pesticides and pesticide labels for specific uses. The pesticide manufacturer must provide safety, environmental and other data to support the registration. Pesticide labeling must conform to the EPA registration. Federal and state law prohibit sale or use inconsistent with label directions. Wisconsin and other states work with EPA to assure proper use and handling of pesticides.

States may regulate pesticide applications within their own territory. States may act on their own authority (independent of EPA), and may establish use restrictions that go beyond federal label restrictions. Wisconsin currently has restrictions on the use of metam sodium pesticides that go beyond federal label restrictions.

Surrounding State Regulations

Other states, like Wisconsin, regulate pesticide applications generally. However, none of the states surrounding Wisconsin has adopted specific requirements for metam sodium or chloropicrin applications, beyond

requirements specified on the federally-approved pesticide labels.

Business Impact

Businesses Affected

This rule regulates commercial pesticide applicators and agricultural producers that apply or receive applications of metam sodium and chloropicrin soil fumigants. Many of the regulated businesses are small businesses, but others are large. Most of the regulated farmers are potato growers.

This rule protects neighboring farms and businesses from adverse effects of improper soil fumigant applications. Many of the protected businesses are small businesses.

Effects on Business

This rule imposes new regulations on the use of chloropicrin soil fumigants (see above). Approximately 71,000 acres of potatoes were planted in Wisconsin in 2004. Chloropicrin is currently applied on approximately 2,000 acres of potatoes and 25 acres of state-owned seedling nurseries in Wisconsin. Chloropicrin applications are made by commercial pesticide applicators that have the equipment and expertise to handle and apply chloropicrin. Chloropicrin-treated acreage is expected to increase due to pest problems and the efficacy of chloropicrin products.

DATCP estimates that this rule will cost \$8,000 to \$12,000 per year for the industry as a whole, mainly for increased costs of applying chloropicrin to approximately 2,000 acres of potatoes. Increased pesticide applicator costs will generally be passed on to farmers. Most of the farms that use chloropicrin are small businesses, but the single largest user (accounting for approximately 25% of the treated acreage) is not a small business.

This rule relaxes some current requirements related to metam sodium applications (post-application inspection requirements and setbacks for “tarped” applications). Farmers and pesticide application businesses that apply metam sodium soil fumigants may experience a small decrease in costs as a result of these changes.

By establishing clear application standards and procedures, this rule protects neighboring farms, businesses and individuals from improper applications. It also helps protect complying pesticide users from liability for offsite movement.

This rule applies to large and small businesses alike. An exemption for small business would undermine the effectiveness of the rule in preventing human exposure to metam sodium and chloropicrin. This rule will not have a significant adverse economic impact on small business. Therefore, it is not subject to the delayed small business effective date provision in s. 227.22 (2) (e), Stats.

Fiscal Impact

This rule will not have a significant fiscal impact on Wisconsin state or local government. DATCP will incur some costs for compliance monitoring. However, DATCP expects to absorb those costs. The fiscal estimate is based on the current use of chloropicrin in Wisconsin.

Environmental Impact

This rule regulates chloropicrin soil fumigant applications to prevent potentially hazardous off-site movement of volatilized chloropicrin. This will help prevent harm to human beings and sensitive animal species.

This rule will relax some current regulations related to applications of metam sodium soil fumigant (post-application inspection requirements and setbacks for “tarped” applications). However, this relaxation will not significantly reduce current safety protection, and will not have a significant adverse environmental impact.

Notice of Hearings
Natural Resources
[CR 06-132]

NOTICE IS HEREBY GIVEN that pursuant to ss. 30.74 (1) (a), (am) and (b), Stats., interpreting ss. 30.625 (1) (a), 30.678 (1) (d) and 30.74 (1) (a) and (b), Stats., the Department of Natural Resources will hold public hearings on revisions to ss. NR 5.001 and 5.18, Wis. Adm. Code, relating to the mandatory boating education program, temporary certifications and course fees.

2005 Wisconsin Act 356 requires all persons born after 1-1-1989 and who are at least 16 years of age, to possess a WDNR approved boating education course certificate before they may operate any motorboat. There was an exception created for a person who is renting/leasing a motorboat if the person providing the boat gives the renter/leaser instruction on how to operate a motorboat in the manner established by the department by rule. The proposed s. NR 5.18 will establish the minimum standards and procedures for the instruction to be given to comply with ss. 30.625 (1) (a) and 30.74 (1) (am), Stats.

The proposed rule clarifies the minimum age to be eligible for a temporary boating education training and certification will be 16 years of age and that the certification only applies to the operation of boats that are rented or leased by the holder of the certificate. In addition, this rule establishes the process for administering an exam and issuance of a temporary certificate. Motorboat rental businesses will be required to collect a \$10 fee for the temporary boating education course of instruction and issuance of the certificate. Similar to fees collected for regular boating education certification courses, the person or business providing the training and administering the exam will be allowed to retain up to 50% of the fee to defray expenses incurred locally to provide the training and issue the temporary certificate. All remaining funds shall be turned in to the department to defray expenses incurred to operate the boating safety program.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rules may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Businesses that either rent or lease motorboats and choose to participate in this process will be affected.

b. Description of reporting and bookkeeping procedures required: Boat rental agents will be required to keep a log or roster of an individual's name, address and date of birth, the exam score, the date each person's temporary boating education certificate was issued, the total course fees collected and the total fees remitted to the department on a monthly basis, if they participated in the program during the previous month.

c. Description of professional skills required: No additional professional skills are required.

The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the

Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Wednesday, **January 24, 2007** at 10:00 a.m.

Room 151, Waukesha State Office Building, 141 NW Barstow St., Waukesha

Wednesday, **January 24, 2007** at 2:30 p.m.

Bluff and Prairie Rooms, DNR South Central Region Hdqrs., 3911 Fish Hatchery Road, Fitchburg

Thursday, **January 25, 2007** at 10:00 a.m.

Main Conference Room, DNR Wausau Service Center, 5301 Rib Mountain Road, Wausau

Thursday, **January 25, 2007** at 3:00 p.m.

Room 185, DNR West Central Region Hdqrs., 1300 W. Clairemont, Eau Claire

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kristin Turner at (608) 264-6276 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

There will be an increase in costs and revenue to initiate this program.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Roy Zellmer, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until February 1, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Kristen Turner, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707.

Notice of Hearings
Natural Resources
[CR 06-133]

NOTICE IS HEREBY GIVEN that pursuant to ss. 30.52 (3g) (b) and 227.11 (2) (a), Stats., interpreting ss. 30.50 (2) (a) 2., 30.51 (2) (a) 8., 30.52 (3g) and 30.68 (9), Stats., the Department of Natural Resources will hold public hearings on revisions to ss. NR 5.001 and 5.01, Wis. Adm. Code, relating to registration of boats used exclusively to make advertisements and creating definitions.

The Wisconsin Legislature passed 2005 Wisconsin Act 481 which took effect on June 14, 2006. This Act exempts boats from the need to pay a fee to be registered and issued a certificate of number when the boat is used exclusively as part of an advertisement being made for the manufacturer of the boat. The department is required under s. 30.52 (3g) (a), Stats., to promulgate rules for the issuance of a free certificate

of number for such boats. The proposed rule will establish the procedure for applying for and issuance of a free 15-day boat registration/certificate of number.

In addition, this rule creates three new definitions to clarify terms used in ch. 30, Stats. The terms are: "lifeboat", safe carrying capacity" and "recommended number of persons". Clarification of these terms will reflect how they have traditionally been interpreted and enforced by the department and will assist the public in understanding the law.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Wednesday, **January 24, 2007** at 10:00 a.m.

Room 151, Waukesha State Office Building, 141 NW Barstow St., Waukesha

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Fiscal Estimate

There will be an increase in costs for this program.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Roy Zellmer, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until February 1, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and

effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Kristen Turner, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707.

Notice of Hearings

Natural Resources

[CR 06-131]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.089 (3) and 29.177 (3m), Stats., interpreting ss. 29.014, 29.024 (6), 29.089 (3), 29.173 (3), 29.177 and 29.181, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 10, Wis. Adm. Code, relating to deer hunting season and permit issuance regulation changes. Part of the 2006 deer rule package that was implemented this fall was the result of a Joint Committee for Review of Administrative Rules (JCRAR) motion requesting that the Department agree to a 1-year experiment with the antlerless only December 4-day gun deer hunt north of Hwy. 8. As a result, the 4-day antlerless only December gun deer hunt starting the second Thursday after Thanksgiving in Deer Management Units north of Hwy. 8 was limited to a 1-year trial in 2006. In order for the December gun hunt to continue in those Deer Management Units beyond 2006, the Department must modify the rule.

The Department will hold public hearings on removing the 1-year sunset on this December deer hunt for the fall of 2007. This **does not** mean the decision has been made. The Department will hold public hearings and collect and analyze data this winter before making a recommendation for final adoption. The rule process requires that the rule be initiated before the 2006 December 4-day antlerless gun deer hunt occurs.

The rule language authorizing the special youth gun deer hunt event is modified to clarify Earn-a-buck and CWD tagging requirements during the event.

The proposed rule also includes several housekeeping changes pertaining to deer hunting in several state parks. The rule does not establish new deer seasons, rather it correctly codifies seasons that have existed in the parks in previous years. In drafting the 2006 deer hunting rule, major revisions to ch. NR 10 took place to consolidate complicated state park deer hunting rule language. During the consolidation, several drafting errors and omissions occurred. These housekeeping changes are included to correct those drafting errors.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Tuesday, **January 16, 2007** at 6:00 p.m.

Auditorium, James Williams Middle School, 915 Acacia Lane, Rhinelander

Wednesday, **January 17, 2007** at 6:00 p.m.

Board Room, Park Falls City Hall, 400 Fourth Avenue South, Park Falls

Tuesday, **January 23, 2007**

Gathering Waters Room, DNR South Central Region Hdqrs., 3911 Fish Hatchery Road, Fitchburg

Fiscal Impact

None anticipated.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Keith Warnke at 608-264-6023 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Keith Warnke, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until February 1, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Warnke.

Notice of Hearings

Natural Resources

[CR 06-134]

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.33 (5) (d), 227.11 (2) (a) and 350.055, Stats., interpreting ss. 23.33 (4) (d) and 350.055, Stats., the Department of Natural Resources will hold public hearings on the amendment of s. NR 19.50, Wis. Adm. Code, relating to establishing specialized fees for Internet based ATV and snowmobile safety certification programs. Section NR 19.50 currently establishes a \$10.00 student fee for programs taught in a classroom setting. The department may authorize the instructors to retain up to 50% of the fee to defray incurred expenses. The remaining funds are turned into the department to defray operation expenses.

The proposed rule will provide a specialized fee for Internet based ATV and snowmobile courses. When the course is managed by an outside entity pursuant to a memorandum of understanding (MOU) with the department, the fee will be established in the MOU. The established fee shall be adequate to defray operational expenses the outside entity incurs as well as operational expenses incurred by the department.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Wednesday, **January 24, 2007** at 10:30 a.m.

Room 151, Waukesha State Office Building, 141 NW Barstow St., Waukesha

Wednesday, **January 24, 2007** at 3:00 p.m.

Bluff and Prairie Rooms, DNR South Central Region Hdqrs., 3911 Fish Hatchery Road, Fitchburg

Thursday, **January 25, 2007** at 10:30 a.m.

Main Conference Room, DNR Wausau Service Center, 5301 Rib Mountain Road, Wausau

Thursday, **January 25, 2007** at 3:30 p.m.

Room 185, DNR West Central Region Hdqrs., 1300 W. Clairemont, Eau Claire

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kristin Turner at (608) 264-6276 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

It is not possible to determine the exact impact of the internet-based safety certification courses for ATV and snowmobile. It is assumed the decrease in revenue will be offset by the decreased costs of administering the safety courses, such as mailing student safety materials to volunteer safety instructors, updating the DNR website to reflect current listings, and filing and computer entry of safety class and student information.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Gary Eddy, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until February 1, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Kristen Turner, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707.

Notice of Hearing

Transportation

[CR 06-135]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1), 110.06, 218.0152, and 227.11 (2), Stats., and interpreting

ch. 218, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **18th day of January, 2007**, at 10:00 AM, to consider the amendment of ch. Trans 138, Wisconsin Administrative Code, relating to dealer facilities, records and licenses.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities is available.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: Ch. 218, Stats.

Statutory authority: ss. 85.16 (1), 110.06, 218.0152, 227.11 (2), Stats.

Explanation of agency authority: The Department licenses and regulates motor vehicle dealers. This rule making deals with the topic of sales facility locations.

Related statute or rule: Ch. 218, Stats., Ch. Trans 138 and 139, Wis. Admin. Code.

Plain language analysis: This rule amendment relates to temporary sales locations, such as at fairs or auto shows, by licensed Wisconsin motor vehicle dealers. Chapter Trans 138 requires that licensed dealers maintain business facilities in the state. In addition, ch. Trans 138 allows licensed Wisconsin dealers to conduct a certain number of sales at temporary sales locations during a year.

Recently, ch. Trans 138 was amended to permit out-of-state motor vehicle sellers, such as Internet vendors, to be licensed as dealers in this state and to sell vehicles to Wisconsin residents via the Internet or similar methods without having to maintain business facilities in the state.

This rule making clarifies two points. First, a licensed Wisconsin motor vehicle dealer's business facilities must be a permanent building in the state of Wisconsin. Second, persons who avail themselves of the out-of-state dealer licensing provisions available to internet sellers may not conduct face-to-face sales in Wisconsin without first obtaining permanent facilities in this state like any other Wisconsin based dealership. To conduct face-to-face sales within the state, a dealer must have a permanent facility in this state.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Motor vehicle dealers are not licensed by the federal government.

Comparison with Rules in Adjacent States:

Michigan: Requires dealers to be licensed and to have an established place of business in the state. Temporary sales locations require an additional application and 30 days notice. Different procedures are required depending if the temporary location is inside or outside the Michigan county of licensure.

Minnesota: Requires dealers to be licensed and to have an established place of business in the state. Requires notification by the dealer to the Department of Public Safety of temporary sales locations. Non-Minnesota dealers are ineligible to participate in face-to-face sales at temporary locations in Minnesota.

Illinois: Requires dealers to be licensed and to have an established place of business in the state. Sales at temporary sales locations are permitted. An application and fee are required.

Iowa: Requires dealers to be licensed and have an established place of business in the state. Temporary sales locations or display at "Fair," "Vehicle Show," or "Vehicle

Exhibition" requires an application and fee. The Department (Transportation) may grant a variance from the requirements of these rules and grant a special limited permit for the display only of motor homes or travel trailers at a convention sponsored by an established national association, if the Department determines that granting the permit would not encourage evasion of these rules and that the public interest so demands. The Department may impose alternative permit requirements.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: There is currently one out-of-state dealer with Wisconsin dealer license that is exempt from Wisconsin's business facility requirement. From October 1, 2003, to September 30, 2005, there were nine out-of-state dealers that were exempt from the business facility requirement. None currently has approval to conduct sales at a temporary sales location. Of these nine out-of-state dealers, nine had previously received approval to conduct sales at temporary sales locations. All approvals have expired.

Analysis and supporting documentation used to determine effect on small businesses: This rule will affect any out-of-state dealers who are required to have a Wisconsin motor vehicle dealer license in order to sell to Wisconsin residents via face-to-face sales. This rule making will require such dealers to establish permanent offices in this state. So long as these dealers confine their sales to Internet, telephone or other remote sale methods, those dealers will be exempt from requirement of keeping a Wisconsin business facility. Such dealers will, however, be prohibited from selling vehicles at temporary sales locations, fairs and conventions. There are no businesses that hold a Wisconsin dealer license and are exempt from business facility requirement, which are currently allowed to hold sales at temporary sales locations.

Effect on small business: This proposed rule will have no impact on licensed Wisconsin motor vehicle dealers who have business facilities in Wisconsin and sell to Wisconsin residents. These businesses will continue to be able to sell vehicles at temporary sales locations. This proposed rule will affect businesses that hold a Wisconsin dealer license, are not located in Wisconsin, and are currently exempt from the Wisconsin business facility requirement. There are currently no businesses in this situation.

This rule making may also limit out-of-state participants at car shows, conventions and fairs from selling motor vehicles at those events without first establishing Wisconsin business facilities. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: No fiscal impact on any local government. No fiscal impact or anticipated costs incurred by the private sector as a result of this rule.

Agency contact person and place where comments are to be submitted and deadline for submission: The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Carson Frazier, Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857.

To view the proposed amendments to the rule, view the current rule, and submit written comments via

e-mail/internet, you may visit the following website:
<http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

TEXT OF PROPOSED RULE

SECTION 1. Trans 138.03 (1) (a) (intro.) and (6) are amended to read:

Trans 138.03 (1) (a) (intro.) A permanent building in this state wherein there are facilities for:

(6) A motor vehicle dealer who is not located in this state, who accepts vehicle purchase orders or lease agreements placed by fax, telephone, the Internet, mail, or some other remote means from persons within this state, and who delivers vehicles to persons within this state is exempt from the dealer business facilities requirements of sub. (1), provided that the

dealer maintains a business office in another jurisdiction at which the books, records and files pertaining to vehicle sales or leases to persons in this state are maintained and the dealer makes these documents available to the department for inspection upon demand. Nothing herein shall be construed to exempt the dealer from the license requirement of s. 218.0114 (1), Stats.

SECTION 2. Trans 138.08(5) is created to read:

Trans 138.08 (5) The dealer maintains a permanent facility in this state in the manner required by s. Trans 138.03 (1) (a).

NOTE: Dealers without permanent facilities in the state may not conduct any sales in this state, including sales at temporary locations, except as provided in s. Trans 138.03 (6).

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **December 31, 2006**, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

For subscription information, contact Document Sales at (608) 266-3358.

Administration

(CR 06-084)

An order affecting ch. Adm 47, relating to the administration of the Wisconsin Land Information Program. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The department does not foresee any significant impact on small business.

Summary of Comments by Legislative Review Committees

No comments were received.

Administration

(CR 06-090)

An order affecting ch. Adm 10, relating to cost benefit analyses of contractual services. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rule prescribes uniform procedures for determining whether services are appropriate for contracting, however, the rule does not require agencies and UW System campuses to make a procurement decision based upon the cost benefit analysis and therefore is expected to have no effect on small business.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce

(CR 05-113)

An order affecting chs. Comm 2, 20, 21, 60 and 61, relating to erosion control, sediment control and storm water management for the construction of buildings. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

Pursuant to statutory mandates under sections 101.1205 and 101.653, Stats., the rules establish statewide standards for erosion and sediment control for the construction of public buildings, places of employment and one- and two- family dwellings in order to protect the waters of the state. For construction sites where one or more acres of land-disturbing activity occurs the rules and compliance with the rules reflect the standards of the U.S. Environmental Protection and the Wisconsin Department of Natural Resources. In order to achieve the statutory goal of protecting the waters of the state compliance is not differentiated based upon the size of a business. The proposed rules establish different standards for

the potential risk posed by the amount of the land disturbing construction activity, in this case, one or more acres and less than once acre.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce

(CR 06-034)

An order affecting ch. Comm 131, relating to diesel truck idling reduction grants. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

As required by section 530.125 (5m) of the Statutes, this rule chapter contains the Department's criteria for administering a grant program for purchasing and installing diesel truck idling reduction equipment. This equipment is voluntary rather than mandatory, and grant recipients typically will pay 30 percent of the purchase and installation cost. The payback for the 30 percent, based on energy savings, should be in months rather than in years.

Based on recommendations from representatives for small trucking fleets, this chapter allows allocating up to 25 percent of the grant funding to applicants who own and operate 50 or fewer truck tractors, and all applicants must certify that they own and operate each truck tractor that is addressed in an application. The chapter also allows preferentially directing funding to an applicant who owns a fleet for which no previous grant has been awarded under the chapter.

The 6- and 12-month post-installation reports that this chapter requires from each grant recipient are expected to include the minimum information needed to reliably field test the installed equipment across the full spectrum of the heavy-duty trucking industry in Wisconsin. Discussions with representatives for small fleets and for large fleets, and input from the US Environmental Protection Agency, indicate that small fleets of eligible trucks have reporting capabilities which are similar to the pertinent capabilities of large fleets. Based on a recommendation from a representative for small fleets, these reports will address Wisconsin miles and total miles. During the first year of the program, the Department will monitor this mileage data, and may consider it further during allocation of grants in subsequent years.

Summary of Comments by Legislative Review Committees

No comments were received, although a hearing was held on October 18, 2006, by the Assembly Committee on Natural Resources.

**Commerce
(CR 06-071)**

An order affecting chs. Comm 20, 21, 22 and 27, relating to installation of manufactured homes. Part effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules fulfill the statutory mandates dictated in 2005 Wisconsin Act 45. Section 101.96 (1) (a), Stats., requires the Department of Commerce to establish installation standards for the safe installation of manufactured homes in this state. Section 101.96 (1) (b), Stats., requires the department to establish a method for ensuring compliance with the installation standards and to establish criteria for the licensure of 3rd party inspectors. Section 101.96 (2), Stats., requires the department to establish a program for the licensure of manufactured home installers. The installer license program must include license eligibility, an examination, an examination waiver procedure, license term, and license fees.

Summary of Comments by Legislative Review Committees

No comments were received.

**Corrections
(CR 06-066)**

An order affecting ch. DOC 332, relating to the establishment of an annual sex offender fee to partially offset the costs of monitoring persons who are on probation, parole or extended supervision. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

There is no expected effect on small businesses under s. 227.114, Stats.

Summary of Comments by Legislative Review Committees

No comments were received.

**Insurance
(CR 06-083)**

An order affecting ch. Ins 9, relating to defined network plans, preferred provider plans, limited service health organizations and limited scope plans and affecting small business. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

No comments were received.

**Marriage and Family Therapy, Professional
counseling and Social Work Examining Board
(CR 06-054)**

An order affecting ch. MPSW 11, relating to required examinations for licensure as a professional counselor. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

There are no supporting documents determining effect on small business. The rules change does not affect small

business as it does not place any additional regulatory requirements for attaining professional counseling licensure.

Summary of Comments by Legislative Review Committees

No comments were received.

**Marriage and Family Therapy, Professional
counseling and Social Work Examining Board
(CR 06-055)**

An order affecting ch. MPSW 13, relating to psychotherapeutic counseling by professional counselors. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us or by calling (608) 266-8608.

Summary of Comments by Legislative Review Committees

No comments were received.

**Natural Resources
(CR 06-012)**

An order affecting chs. NR 10, 15, 16 and 19, relating to deer and turkey hunting, hunting and trapping techniques, permit and license issuance, dog training, and learn to hunt programs. Effective 2-1-07 and 4-1-07.

Summary of Final Regulatory Flexibility Analysis

The revisions to chs. NR 10, 15 and 19, are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. There, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Natural Resources and Transportation and the Assembly Committee on Natural Resources. The Assembly Committee on Natural Resources held a public hearing on July 20, 2006. No comments or recommendations were received by the Department as a result of the hearing.

**Natural Resources
(CR 06-026)**

An order affecting chs. NR 504, 506, 514 and 516, relating to landfilling of solid waste. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

None of the landfills which are directly affected by this rule meet the definition of a small business. However, there may be indirect cost increases to small businesses depending on the choices a landfill operator makes to comply with the rule. Over time, these cost increases would be balanced out by the avoided long-term costs to society of managing long-closed waste disposal sites that still represent a risk to public health and the environment due to their content of undecomposed organics.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Senate Committee on Natural Resources and Transportation and the Assembly Committee on Natural Resources. On September

14, 2006, the Assembly Committee on Natural Resources held a public hearing on the proposed rule. No comments were received by the Department.

Natural Resources (CR 06-074)

An order affecting ch. NR 10, relating to the 2006 migratory game bird seasons. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules relate to individual hunters; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The proposed rules were reviewed by the Senate Committee on Natural Resources and Transportation and the Assembly Committee on Natural Resources. On October 18, 2006, the Assembly Committee on Natural Resources held a public hearing. The department did not receive any comments from the committee regarding the proposed rule.

Public Instruction (CR 06-092)

An order affecting ch. PI 21, relating to driver's education requirements and aid. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not impact small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Public Instruction (CR 06-093)

An order repealing ch. PI 15, relating to establishing qualifications and selection procedures for CESA administrators. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not impact small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Regulation and Licensing (CR 06-060)

An order affecting chs. RL 164 and 165, relating to a code of conduct and renewal requirements for substance abuse professionals. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

These proposed rules have no significant economic impact on small businesses, as defined in s. 227.114(91), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us or by calling (608) 266-8608.

Summary of Comments by Legislative Review Committees

No comments were received.

Regulation and Licensing (CR 06-069)

An order affecting chs. RL 90 to 94, relating to application requirements, definitions, certification,

reciprocity, waiver of education requirements and unprofessional conduct, governing the certification of massage therapists and bodyworkers. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114(1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us or by calling (608) 266-8606.

Summary of Comments by Legislative Review Committees

No comments were received.

Regulation and Licensing (CR 06-096)

An order creating chs. RL 180 to 183 and Appendix I, relating to the issuance and renewal of licenses, the issuance of temporary permits, standards of practice and grounds for discipline of licensed midwives. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on small businesses, as defined in s. 277.114(1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us or by calling (608) 266-8606.

Summary of Comments by Legislative Review Committees

No comments were received.

Transportation (CR 06-082)

An order affecting ch. Trans 102, relating to operator's licenses and identification cards and affecting small businesses. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

Some small businesses may be affected, if their employees who are not U.S. citizens do not have legal presence and consequently lose their driving privileges and require driving privileges to attend or perform their jobs. These costs are indeterminable.

Summary of Comments by Legislative Review Committees

No comments were received.

Transportation (CR 06-089)

An order affecting ch. Trans 105, relating to licensing of driver schools and instructors. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

Most driver schools are small businesses, and are already regulated by the department. This rule making changes how the department regulates driver schools.

Summary of Comments by Legislative Review Committees

No comments were received.

Workforce Development (CR 06-072)

An order affecting ch. DWD 127, relating to the unemployment insurance work search. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not add or change any requirements for small businesses and will not have a significant economic impact on these businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

**Workforce Development
(CR 06-073)**

An order affecting ch. DWD 129, relating to unemployment insurance benefit claiming procedures. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not add or change any requirements for small businesses and will not have a significant economic impact on these businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

**Workforce Development
(CR 04-081)**

An order affecting ch. DWD 290, relating to prevailing wage rates on public works projects. Effective 1-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rule will affect small business as defined in s. 227.114 91), Stats., but the rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **December 2006**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Administration

Ch. Adm 10

S. Adm 10.02 (4)
S. Adm 10.035
S. Adm 10.037
S. Adm 10.038
S. Adm 10.039

Ch. Adm 47

S. Adm 47.02 (2) to (11)
S. Adm 47.03 (intro.)
S. Adm 47.04 (intro.), (2) and (4)
S. Adm 47.05
S. Adm 47.06 (intro.) and (2)
S. Adm 47.07

Commerce

Ch. Comm 2

S. Comm 2.36

Ch. Comm 5

S. Comm 5.61 (1)
S. Comm 5.63 (1) (b)

Ch. Comm 20

S. Comm 20.01 (1) and (2)
S. Comm 20.02 (1) (a), (b), (2) (b), (e), and (f)
S. Comm 20.04 (2) (a) and (b) and (5)
S. Comm 20.05 (9)
S. Comm 20.07 (19r), (28v), (46m), (52) (b), (52m), (63m), (65r), and (67m)
S. Comm 20.085
S. Comm 20.09 (4)
S. Comm 20.10 (1) (b), (c), and (3)
S. Comm 20.22 (2) (a) and (b)

Ch. Comm 21

S. Comm 21.125
S. Comm 21.126
S. Comm 21.40

Ch. Comm 22

S. Comm 22.06 (10)

Ch. Comm 60 (Entire chapter)

Ch. Comm 61

S. Comm 61.03 (4) (b)
S. Comm 61.04 (6)
S. Comm 61.115

Ch. Comm 131 (Entire chapter)

Corrections

Ch. DOC 332

S. DOC 332.19

Commissioner of Insurance

Ch. Ins 9

S. Ins 9.01 (5), (9m), (10m), and (13)
S. Ins 9.015
S. Ins 9.07 (1)
S. Ins 9.20 (intro.)
S. Ins 9.25 (4)
S. Ins 9.32 (2) (a), (c), (e), (f), and (fm)
S. Ins 9.33
S. Ins 9.41
S. Ins 9.42 (1) and (5) (a)

Marriage & Family Therapy, Professional Counseling & Social Work Examining Board

Ch. MPSW 11

S. MPSW 11.02

Ch. MPSW 13 (Entire chapter)

Natural Resources

Ch. NR 10

S. NR 10.001 (21m) and (25k)
S. NR 10.01 (1) (b), (c), (g), (u), (v), (2) (a), (c), (f) and (3) (e)
S. NR 10.06 (7)
S. NR 10.102 (4) and (4m)
S. NR 10.12 (1) (e) and (4)
S. NR 10.13 (1) (b)
S. NR 10.15 (6)
S. NR 10.25 (1) (d) to (g) and (4) (b)
S. NR 10.28 (1)
S. NR 10.31 (11)
S. NR 10.32
S. NR 10.33
S. NR 10.34

Ch. NR 15

S. NR 15.02 (5)

Ch. NR 16

S. NR 16.01 (18)

Ch. NR 19

S. NR 19.025 (2) (d)

Ch. NR 504

S. NR 504.06 (5) (dm) and (e)

S. NR 504.095 (1) (d) and (2) (b)

Ch. NR 506

S. NR 506.135 (1) (a) to (e) and (h), (2) (a) to (c) and (e) to (f)

Ch. NR 512

S. NR 512.09 (6) (a)

Ch. NR 514

S. NR 514.07 (7) (c) and (i), (9) (a) to (f)

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Editorial corrections

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing.

Corrections**Ch. DOC 302**

S. DOC 302.31 (3) (b)

Ch. DOC 314

S. DOC 314.05 (2) (c)

Ch. DOC 327

S. DOC 327.09 (2) (d) and (m)
S. DOC 327.17 (intro.) and (1)

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S. DOC 333.14 (intro.) and (1)

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Natural Resources**Ch. NR 504**

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S. DWD 127.08 (2)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 174. Relating to the suspension of Craig Haukaas as District Attorney of Bayfield County.

Executive Order 175. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Captain Rhett Schiller of the United States Army who lost his life during Operation Iraqi Freedom.

Executive Order 176. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Lance corporal Jesse Tillery of the United States Marines who lost his life during Operation Iraqi Freedom.

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